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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,948	01/14/2002	Tom L. Tomlin	2785	4420

27727 7590 10/09/2002
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BOISE, ID 83701

EXAMINER

BRANN, DEBORAH M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 10/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

Office Action Summary

Application No.

10/046,948

Applicant(s)

TOMLIN, TOM L.

Examiner

Deborah M. Brann

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other:

DETAILED ACTION

This is the first office action for application number 10/046,948, Trash Bag Support and Liner, filed January 14, 2002. Claims 1-4 are pending.

Information Disclosure Statement

Receipt is acknowledged of Form PTO-1449, Information Disclosure Statement, which has been reviewed by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,983,914 to Benson.

Regarding claims 1, 2, and 4, Benson discloses a bag support (figure 1) comprising a single, generally rectangular piece of plastic (col. 1, lines 50-51) with hand holes (9) near an edge of the piece of plastic and a temporary locking mechanism for holding the bag support in a cylindrical position comprising integral tabs (5) near an edge of the piece of plastic (see figure) and cooperating slits (3) in the piece of plastic, several of the slits located near the center of the piece of plastic (see figure).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Benson in view of U.S. Patent No. 6,296,212 to Monahan.

Regarding claim 3, Benson discloses all the limitations of the claimed invention except for hand holes near two edges of the piece of plastic. Monahan discloses a bag support (figure 2) composed of a rectangular piece of plastic with hand holes (22, 24, 26) along two edges of the rectangular bag support. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Benson by including hand holes near both the top and bottom edges of the bag support. One would have been motivated to have made such a modification in order that the bag support may be easily inserted into or removed from the interior of a trash bag without regard to the orientation of the respective top and bottom edges of the device.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 1,975,510 to Hiatt discloses a frusto-conical basket liner whose ends are locked in place using a tab and slit locking mechanism. U.S. Patent Nos. 5,056,679 to Lonczak, 5,915,768 to Young, and 6,007,030 to Judge

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disclose additional expandable bag supports utilizing tab and slot locking mechanisms. U.S. Patent Nos. 3,822,524 to Jerpbak, 3,915,329 to Zaks, 4,115,909 to Corella, 4,457,483 to Gagné, 4,955,496 to Nelson, 5,226,554 to Dauphinais, and 5,716,033 to Gibson disclose expandable bag supports utilizing other locking mechanism embodiments. U.S. Patent Nos. 4,628,007 to Ledsham, 6,044,877 to Bennet, 6,065,512 to Munn, II, and 6,340,037 to Stafford disclose generally rectangular bag supports that expand to frictionally hold open a trash bag.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah M. Brann whose telephone number is 703-308-3122. The examiner can normally be reached on M-F (8:00 am - 5:30 pm) First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on 703-308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-3519 for regular communications, 703-872-9326 for official communications and 703-872-9327 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

DMB
Deborah M. Brann
October 4, 2002


LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER